

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MICHAEL ALAN CROOKER,

Plaintiff,

v.

UNITED STATES,

Defendant.

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) **Civil Action No.**
) **13-30199-FDS**
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MEMORANDUM AND ORDER

SAYLOR, J.

Plaintiff Michael Alan Crooker brought suit under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 2671-2680, alleging malicious prosecution, negligence, and medical maltreatment by the United States Marshals Service (“USMS”) and the United States Bureau of Prisons (“BOP”). The original complaint alleged that the USMS and BOP failed to abide by a court order requiring Crooker’s pre-trial transfer to a facility where he could be treated for liver disease; failed to provide him eyeglasses for one year; denied him non-emergency dental treatment for nine-and-one-half years; and denied him cataract surgery for four years. More extensive detail about the claims is included in the Court’s July 23, 2014 memorandum and order.

On April 16, 2014, defendant filed a motion for partial dismissal of the complaint, which the Court granted in part and denied in part on July 23, 2014. In substance, only certain claims for inadequate dental care and eye care that arose after December 6, 2010, and for failure to provide eyeglasses remained.

Prior to the Court’s decision, plaintiff had filed various motions, including a motion to

produce documents, a motion for partial summary judgment as to the malicious-prosecution claim, and a motion for leave to file an amended complaint to add an additional FTCA claim relating to use of his medical records.

The motion to produce documents (Dkt. No. 15) seeks, among other things, the grand jury minutes from a prior prosecution and investigative files in the possession of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives that allegedly relate to the malicious-prosecution claim. Because the Court has dismissed that claim, those documents have no relevance to the action. The motion also seeks a photograph or reproduction of a sign posted at FMC Devens that allegedly states that the institution will provide care comparable to that provided in the private sector. That, too, has little probative value to plaintiff's remaining claims. Accordingly, the motion will be denied.

The motion for partial summary judgment as to the malicious-prosecution claim (Dkt. No. 34) has been rendered moot by dismissal of that claim. Accordingly, the motion will be denied as moot.

The motion for leave to file a second amended complaint (Dkt. No. 47) seeks to add a claim under the FTCA for allegedly improper release of medical records. Plaintiff alleges that a BOP psychologist at FMC Devens disclosed drug treatment records to "BOP prosecutors" in violation of 42 U.S.C. § 290dd-2(c) and 42 C.F.R. § 2.13(a). However, there is no private cause of action under either that statute or that regulation. *Doe v. Broderick*, 225 F.3d 440, 447 (4th Cir. 2000); *Ellison v. Cocke County*, 63 F.3d 467, 469 (6th Cir.1995); *Zona v. Clark Univ.*, 436 F. Supp. 2d 287, 290 (D. Mass. 2006). Amendment of the complaint would therefore be futile, and accordingly, the motion will be denied.

For the foregoing reasons, the motion to produce is DENIED, the motion for partial summary judgment is DENIED as moot, and the motion for leave to file an amended complaint is DENIED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: July 24, 2014